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(D) Items falling under the jurisdiction of agencies other than NASA's Delegate Agency. These are: petroleum, gas, solid fuel, electric power, and all other forms of energy; food; civil transportation and the movement of persons and property by all modes; minerals; water; housing facilities; health facilities; radio-isotopes, stable isotopes, source material and special

nuclear material produced in Government-owned plants or facilities operated by or for the Department of Energy; communication services; copper raw materials; crushed stone; gravel; sand; scrap; slag; central steam heat; and waste paper.

(iii) All other NASA orders shall be assigned a DO rating, unless NASA has obtained a DX rating from the Delegate Agency.

(iv) The program identification numbers (DPAS, 15 CFR part 700, SCH L.) to be used by NASA are as follows:

- A1 Aircraft
- A2 Missiles
- A3 Ships
- A5 Weapons
- A6 Ammunition
- A7 Electronic and Communications Equipment
- B1 Military Building Supplies
- B8 Production Equipment (for Contractor's Account)
- B9 Production Equipment (Government-Owned)
- C2 Construction
- C3 Maintenance, Repair, and Operating Supplies for Facilities
- C9 Miscellaneous/Other

(g) Installation requests for assistance shall be directed to the Headquarters Office of Procurement (Code HS).

**PART 1812—ACQUISITION OF
COMMERCIAL ITEMS**

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1812.7000 Prohibition on guaranteed customer bases for new commercial space hardware or services.

AUTHORITY: 42 U.S.C. 2473(c)(1).

SOURCE: 61 FR 47079, Sept. 6, 1996, unless otherwise noted.

**Subpart 1812.1—Acquisition of
Commercial Items—General**

**1812.102 Applicability. (NASA supple-
ments paragraph (c))**

(c) For the acquisition of commercial items of any value, the MidRange procedures described in part 1871 may be used to the extent they are consistent and compliant with FAR part 12 and part 1812. Unless specifically stated, in any conflict between these parts the descending order of precedence is FAR part 12, part 1812, and part 1871.

**Subpart 1812.3—Solicitation Provi-
sions and Contract Clauses
for the Acquisition of Com-
mercial Items**

**1812.301 Solicitation provisions and
contract clauses for the acquisition
of commercial items. (NASA supple-
ments paragraph (f))**

(f)(i) The following clauses may be used in acquisitions of commercial items:

(A) 1852.214–71, Grouping for Aggregate Award.

(B) 1852.214–72, Full Quantities.

(C) 1852.215–84, Ombudsman.

(D) 1852.219-75, Small Business and Small Disadvantaged Business Subcontracting Reporting.

(E) 1852.219-76, NASA Small Disadvantaged Business Goal.

(F) 1852.228-72, Cross-Waiver of Liability for Space Shuttle Services.

(G) 1852.228-76, Cross-Waiver of Liability for Space Station Activities.

(H) 1852.228-78, Cross-Waiver of Liability for NASA Expendable Launch Vehicles.

(I) 1852.232-70, NASA Progress Payment Rates.

(ii) No other provisions and clauses prescribed in the NFS or center documents shall be used in acquisitions of commercial items, except as permitted by FAR 12.302.

(J) 1852.246-72, Material Inspection and Receiving Report.

[61 FR 47079, Sept. 6, 1996, as amended at 62 FR 14017, Mar. 25, 1997]

1812.302 Tailoring of provisions and clauses for the acquisition of commercial items. (NASA supplements paragraph (c))

(c) The Associate Administrator for Procurement (Code HS) is the approval authority for waivers. Requests shall be prepared and submitted in accordance with 1801.471.

Subpart 1812.4—Unique Requirements Regarding Terms and Conditions for Commercial Items

1812.404 Warranties.

(b) In acquisitions under the Simplified Acquisition Threshold specified in FAR part 13, no express warranty should be required other than the offeror's commercial warranty.

Subpart 1812.70—Commercial Space Hardware or Services

1812.7000 Prohibition on guaranteed customer bases for new commercial space hardware or services.

Public Law 102-139, title III, Section 2459d, prohibits NASA from awarding a contract with an expected duration of more than one year if the primary effect of the contract is to provide a guaranteed customer base for, or establish an anchor tenancy in, new commercial space hardware or services. Exception to this prohibition may be authorized only by an appropriations Act specifically providing otherwise.

[63 FR 40189, July 28, 1998]